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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,619	01/16/2004	Larry J. Pacey	47079-0029IUSPT	8178

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NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

EXAMINER	
TORIMIRO, ADETOKUNBO OLUSEGUN	
ART UNIT	PAPER NUMBER
3714	
MAIL DATE	DELIVERY MODE
07/14/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/759,619	PACEY, LARRY J.	
	Examiner	Art Unit	
	ADETOKUNBO O. TORIMIRO	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 December 2008*.

2a)☒ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The amendment received on 12/10/2008 has been considered. It has been noted that claims 1,29, and 32 have been amended. The finality based on the Englman and Locke references have been withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-28 and 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ainsworth (US 6,544,120) in view of Ainsworth et al (US 2002/0047238) and Meyer (US 2002/0055382).

Re claim 1,15, and 37-40: Ainsworth teaches randomly selecting a first plurality of symbols to form a first array, each of the first plurality of symbols positioned in a column and row in the first array **(see claims 1 and 17)**; displaying the first array **(see figs. 1 and 4; claims 1 and 17)**; determining if the first array has a first winning outcome/pay line **(see claims 1 and 17)**; making a second wager / *bet* to be eligible for an award based on a second / *bonus* array **(see col.4, lines 37-39)**; randomly selecting a second plurality of symbols **(see figs. 1 and 4; claim 17)**; displaying the second array **(see figs. 1 and 4; claims 1 and 17)**; determining if the second array has a second winning outcome/pay line **(see col. 4, lines 34-37; claims 1 and 17)**; and awarding an award for any winning outcome **(see col.4, lines 34-37; claims 1 and 17)**, further

discloses that a third or even more arrays may be played **(see figs. 1 and 4; col. 4, lines 34-37; claim 19)**; providing an array of symbol positions for accommodating respective symbols; offering a player an option to make a wager on an expanded array; and in response to the wager **(see col.4, 37-39)**; the second and expanded array including the second plurality of symbols and the first plurality of symbols in the first array without replacing any of the first plurality of symbols **(see fig.1)**.

However, Ainsworth does not explicitly teach that a first wager is made to initiate play of the wagering game since it is/was well known in the art at the time the invention was made that wagering/slot games function or allow the user to play only after an initial wager has been made; adding the second plurality of symbols between at least some of the first plurality of symbols in the first array to form a second array.

Ainsworth et al teaches adding the second plurality of symbols between at least some of the first plurality of symbols in the first array to form a second array **(see figs.1 and 2; pars. [0018] and [0019])**.

Meyer teaches the second array including the second plurality of symbols and the first plurality of symbols in the first array without replacing any of the first plurality of symbols, each of the first plurality of symbols remaining in either the respective column or row in the first array **(see abstract; figs.1 and 2; pars. [0019],[0035],[0037], and [0038])**. The figures 1 and 2 describes the same array in fig.1 included in fig.2 whereby upon a trigger event occurring from fig.1, the array in fig.2 is produced.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Meyer into the teaching of Ainsworth. One

would be motivated to do this so as to have a wider selection and combination of arrays that be displayed, thereby increasing the player interest in the game.

Re claims 2-4 and 16-18: Ainsworth teaches that the second array is at least one additional row and/or columns (see **figs. 1 and 4; claim 17)**.

Re claims 11-14 and 25-28: Ainsworth teaches that the additional row and/or column can randomly be determined **(see col. 4, lines 10-13; claim 17)** or the player may choose where the location is **(see col. 4, lines 13-14; claim 20)**.

Re claims 5 and 19: Ainsworth teaches that the player must make additional wagers on the pay lines of the second, third, etc… arrays **(see col. 4, lines 38-40)**.

Re claims 6,10,20, and 24: Ainsworth teaches that in order to receive the second array the initial array must have a triggering event **(see claims 1 and 17)**.

Re claims 7-8 and 21-22: Ainsworth teaches the gaming machine with arrays.

However, Ainsworth does not teach that multiple pay tables or probability tables are used.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to recognize that the initial array could use a first pay table with a maximum of a five-of-a-kind match (if there are five reels with three rows each) and that when the

expanded array is used that an alternate / *second* pay table may be used that will be larger than the first pay table because now the maximum could be a six-of-a-kind match (if an additional reel was added with three rows) or any additional combinations now possible with the expanded array and that in respect with the additional combinations now possible that a second probability table can be used to determine the probabilities of the new combinations in order to make it possible for the player's to achieve additional and more rewarding payouts depending on how many bonus/additional arrays they achieve during game play.

Re claims 9 and 23: Ainsworth teaches that extending / *adding* a row and/or a column allows extra pay lines to be added to the game **(see figs. 1 and 4; col. 3, lines 61-64)**.

4. Claims 29-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ainsworth (US 6,544,120) in view of Adams (US 5,882,261). The teachings of Ainsworth have been discussed above.

Re claims 29,30,32,33, and 35: Ainsworth teaches the gaming machine with arrays.

However, Ainsworth does not teach that modifier symbols are used that can be added to the first array to form a second array or used to modify the array to form a modified array where the modifier symbols represent a mathematical function.

Adams discloses a modifier / *multiplier* feature that in response to a primary game outcome, randomly selecting and placing symbols on the reels in visual association with symbol array, randomly selecting payout multipliers without player input / *automatically* for varying the

secondary game outcomes; where the modifier / *multiplier* symbols represent a mathematical function **(see abstract; col.1, lines 63- col.2, line 9)**.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ainsworth's gaming machine with Adams. One would be motivated to do this so as to have a game system that allows additional arrays to alter the outcome of the game play by modifier symbols associated with the arrays in order to increase the outcome and hence the player's excitement because they have the possibility to win even greater payouts with the multiplier symbols.

Re claims 31,34, and 36: Ainsworth teaches that in order to receive an additional array the initial array must have a triggering event **(see claims 1 and 17)**.

Response to Arguments

5. Applicant's arguments filed 12/10/2008 have been fully considered but are moot in view of the new ground(s) of rejection.

In response to the argument that Ainsworth '038 does not teach adding a second plurality of symbols without replacing any of the first plurality of symbols, the examiner points out that Meyer teaches this feature. Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21

USPQ2d 1941 (Fed. Cir. 1992). In this case, all the prior arts teach the limitation of creating a second array from the first array in a wagering game.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adetokunbo O. Torimiro whose telephone number is (571) 270-1345. The examiner can normally be reached on Mon-Fri (8am - 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/A. O. T./

Examiner, Art Unit 3714

/John M Hotaling II/

Supervisory Patent Examiner, Art Unit 3714